

*Draft*

**R212-14 Distribution and Acceptable Use of Archaeological Records**

**R212-14-1. Authority.**

This rule is authorized by Utah Code 9-8-304 and 63-2.

**R212-14-2. Purpose.**

The purpose of this rule is to establish policy for the distribution and acceptable use of protected archaeological records administered by the Utah Division of State History Antiquities Section.

**R212-14-3. Definitions.**

- (1) "Division" means the Utah Division of State History.
- (2) "Section" means the Antiquities Section of the Division.
- (3) "Archaeological Records" means the collected information pertaining to archaeological resources and research, administered by the Section. The information is stored in a variety of formats including tabular and spatially-enabled databases, paper maps or facsimiles, paper site records or facsimiles, and paper project reports or facsimiles.
  - (a) "Protected archaeological records" means archaeological records that reveal the location of historic or prehistoric resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information.
- (4) "Governmental entities" means federal and state agencies, tribal governments, county, city, and other local governments, boards, service districts, and other similar entities.
- (5) "Researcher" means an individual engaged in bona fide archaeological research.
- (6) "Authorized individual" is an individual who represents a governmental entity or a researcher who has been granted access to protected archaeological records administered by the Section under the provisions of this rule.
- (7) "Research organization" means a company, corporation, office, or similar organization engaged in lawful archaeological research or compliance.
- (8) "Web application" refers to the computer program developed and maintained by the Section for remote data entry, information retrieval, and business process management.
- (9) "Data file" is a computer file that is delimited or otherwise formatted in a manner that facilitates the duplication, manipulation, or distribution of said file.
- (10) "Download" is the intentional and deliberate copying of data files.

**R212-14-4. Accuracy, completeness, and availability.**

(1) The archaeological records collection administered by the Section contains information received from a variety of sources. The Section has not undertaken a significant review of all of the information on file and cannot guarantee the accuracy or completeness of the data.

(2) The web application does not replace the records held at Section offices.

(3) Use of the web application to obtain information on known cultural resources does not constitute a complete effort to identify historic properties. Other sources may contain additional pertinent information.

(4) Information received from the Section that shows an absence of cultural resources in a particular location does not indicate that cultural resources are not present in that location. Information regarding a particular location may be incomplete or that location may not have been examined for cultural resources.

(5) The web application may be unavailable periodically.

**R212-14-5. Access by governmental entities.**

(1) Governmental entities may be granted access to the protected archaeological records administered by the Section pursuant to 63-2-206. Governmental entities requesting access under record sharing provisions must demonstrate that the records are necessary for them to carry out their duties, and that the records will be used for purposes compatible with the duties and responsibilities of the Division.

(2) Shared records retain their protected status unless otherwise agreed to in writing by the Division.

(3) Access under record sharing provisions shall be granted to an individual representing a governmental entity. An authorized individual shall not divulge his or her access credentials to any third party. An authorized individual may not use his or her access credentials to allow another party access to the web application. An authorized individual shall not disclose protected records to other individuals within the governmental entity, except as provided for in R212-14-7(7).

(4) The individual who will have access to the records and the person authorized to sign on behalf of the governmental entity requesting access shall sign an application and form provided by the Division. By signing the statement, the individuals agree to assure the integrity, confidentiality, and security of the records and acknowledges that violation of the terms of the agreement may lead to criminal prosecution under 63-2-801.

(5) A governmental entity shall notify the Section immediately when an authorized individual is no longer affiliated with that entity. That individual's access credentials shall be terminated upon such notification by the entity or when the individual is no longer affiliated with the entity, whichever occurs first.

**R212-14-6. Access for research purposes.**

(1) Individuals engaged in bona fide archaeological research may be granted access to protected archaeological records administered by the Section pursuant to 63-2-201(5)(b). The individual requesting access must demonstrate that the records are essential to the research and

that the records will be used for purposes compatible with the duties and responsibilities of the Division. These conditions may be met by an individual through affiliation with or employment by an organization engaged in bona fide archaeological research or compliance work. Such affiliation does not guarantee that the individual will be granted access. Based upon the application, the Division director or authorized designee will determine whether the interests favoring access to the records outweighs the interest favoring restriction of access; if he or she so determines, the director or designee may grant access to the records upon such terms as are deemed appropriate.

(2) Records accessed by individuals for research purposes shall retain their protected status unless otherwise agreed to in writing by the Division.

(3) Access for research purposes shall be granted to individuals. An authorized individual shall not divulge his or her access credentials to any third party. An authorized individual shall not use his or her access credentials to allow another party access to the web application. An authorized individual shall not disclose protected records to other individuals within their company, corporation, office or similar organization, except as provided for in R212-14-7(8).

(4) Each individual who will have access to the records and the person authorized to sign on behalf of the affiliated research organization, if applicable, shall sign an application and form provided by the Division. By signing the statement, the individuals agree to assure the integrity, confidentiality, and security of the records and acknowledges that violation of the terms of the agreement may lead to criminal prosecution under 63-2-801.

(5) A research organization shall notify the Section immediately when an authorized individual is no longer affiliated with that research organization. That individual's access credentials shall be terminated upon such notification by the research organization or when the individual is no longer affiliated with the organization, whichever occurs first.

**R212-14-7. Distribution and acceptable use.**

(1) The only permissible intended uses for protected archaeological records are for cultural resources management, research, and education.

(2) Web application access credentials shall not be shared with any third party under any circumstances.

(3) Data files and site location information shall not be downloaded from the web application.

(4) On request, the Section may prepare standard data products containing protected archaeological records for a requestor to be used under a restricted use license. Requestors shall demonstrate that security measures are in place that will guard against intentional or accidental mishandling of the data files.

(5) The Division may elect to allow entities to connect directly to the database. Terms of participation shall be negotiated individually.

(6) Site location information may be represented in publications and presentations, provided the information is generalized such that the site cannot be relocated from that

information. The "Utah Division of State History, Antiquities Section" shall be cited as the source of the information.

(7) An authorized individual representing a governmental entity may share site location information about lands that they manage with agency staff only in paper-based formats and only for purposes compatible with the duties and responsibilities of the Division.

(8) An authorized individual engaged in research may share project-specific site location information with clients or others within their research organization only in paper-based formats and only for purposes compatible with the duties and responsibilities of the Division.

(9) An authorized individual representing a governmental entity shall not utilize the archaeological records on behalf of researchers or research organizations. Each researcher must apply for individual access privileges.

**R212-14-8. Security violations.**

(1) The Section intends for archaeological records to be viewed and interpreted only. Manipulating the content of a record is not permissible. Obtaining data files through any means other than delivery by Section staff is not permissible.

(2) It is a Class B Misdemeanor to improperly disclose or provide copies of private, controlled or protected records, 63-2-801.

(3) Any and all system security violations, actual or potential, shall be reported immediately to the Section.

(4) Violations may result in suspension of system privileges.

(5) Any suspension may be appealed in accordance with UCA 63-46b and R212-1.

(6) If suspended, a user must petition the Board of State History to re-instate system privileges after a minimum of one year.